



TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

September 21, 2009

TO: Internal File

THRU: Dave Darby, Lead 

FROM: Ingrid Wieser, Environmental Scientist II 

RE: Change In Post Mining Land Use, Sunnyside Cogen Associates, Star Point Waste Fuel Refuse, C/007/0042, Task ID #3361

SUMMARY:

On August 10, 2009, the Division received an Application from Sunnyside Cogen to change the postmining land use. The permittee proposed to change the postmining land use to industrial in the portion of the permit area that has been used by Cononco Phillips as a gas lease. The permittee also submitted an amendment to adjust the permit boundary so that most of the proposed industrial area will be outside the permit area. (See task 3363).

The following deficiency were identified during this review:

R645-301-412.200, -413.300 Please provide evidence of landowner concurrence with the proposed industrial PMLU including a narrative describing the lease number to illustrate a reasonable likelihood for achieving the postmining land use.

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TECHNICAL ANALYSIS:

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

LAND-USE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.22; R645-301-411.

Analysis:

Page 400-4 to 400-5 of the MRP describes the premining land use. The pre-mining land use in the permit area is described as grazing, timbering, and wildlife habitat. The permittee altered page 400-5 to state that current land use also includes gas exploration and extraction.

Page 300-36 section 342 describes the fish and wildlife plan in relation to the postmining land use(s). It states that no croplands, residential, industrial, or public service use is planned as a postmining land use. The industrial PMLU will no longer be in the permit area once this amendment and the permit boundary change amendment is approved. Reclamation and fish and wildlife plans will be enforced by the permitting authority (DOGM, oil and gas) when the oil company applies for an oil permit.

Findings:

The information provided is adequate to meet the minimum regulatory requirements for this section.

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Endangered and Threatened Species

No endangered or threatened plant or animal species have been identified on the project area.

Bald and Golden Eagles

Annual raptor surveys have been conducted since 1982. According to DWR, there are no active raptor nests within ½ mile of the refuse pile. Page 300-23 states that a large amount of habitat exists for raptors elsewhere and the refuse pile does not adversely affect the raptor population.

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

According to map 321.100b and 322.220a, the following habitats existed on the proposed industrial Post mining land use area: Mountain Cottontail, deer migration route, high priority mule deer summer range, and high priority mule deer and elk winter range. The relatively small area of the proposed industrial PMLU should not have an adverse affect on these high priority habitats.

Findings:

The information provided in this section is adequate to meet the minimum regulatory requirements for this section.

RECLAMATION PLAN

POSTMINING LAND USES

Regulatory Reference: 30 CFR Sec. 784.15, 784.200, 785.16, 817.133; R645-301-412, -301-413, -301-414, -302-270, -302-271, -302-272, -302-273, -302-274, -302-275.

Analysis:

The permittee proposes to change a portion of the post mining land use to industrial. This area is and will be used for a gas lease. Page 400-5 has been modified to state that areas within the permit area that are proposed industrial land uses will be reclaimed to the extent needed to allow that use. Page 400-9 has also been modified to include the previous statement.

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Page 400-10 has been updated to include, "Industrial PMLU areas will be achieved by clearing the area of coal materials and turning it over to the industrial users subject to the corresponding regulations of their use." This section needs to include a revegetation plan necessary for controlling erosion.

Page 400-10 of the approved MRP includes a description of the surface landowners' approval of the postmining land use plan. Owners include BLM, PMC, and SCA. Letters of concurrence of the land use from landowners are located in the Appendix for Chapter 400. These letters do not include the proposed industrial PMLU.

According to the land use regulations, (R645-301-413.100,) the applicant must submit the postmining land use change in accordance with R645-303-220, as a significant alteration from the permit and subject to the requirements of R645-300-120 through 155 and R645-300-200. These regulations require the following:

- Public Participation in permit processing. The applicant must place an advertisement in a local newspaper of general circulation in the locality of the proposed coal mining operation at least once a week for four consecutive weeks.

A copy of the notice was included in the application.

Findings:

The information provided is not considered adequate to meet the minimum regulatory requirements for this section. Prior to approval, the applicant must provide the following in accordance with:

R645-301-412.200, -413.300 Please provide evidence of landowner concurrence with the proposed industrial PMLU including a narrative describing the lease number to illustrate a reasonable likelihood for achieving the postmining land use.

REVEGETATION

Regulatory Reference: 30 CFR Sec. 785.18, 817.111, 817.113, 817.114, 817.116; R645-301-244, -301-353, -301-354, -301-355, -301-356, -302-280, -302-281, -302-282, -302-283, -302-284.

Analysis:

Revegetation: General Requirements

Page 200-12 has been modified to state that the proposed industrial area will not receive soil cover or revegetation efforts. The refuse pile was placed on top of existing vegetation and soil prior to SMCRA regulations. The coal will be removed from the site, and the site will then be permitted by oil and gas. The only regulation that applies to the reclamation of this site (as an industrial area) would be R645-3010342.400 which states that the operator will intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs and trees useful for wildlife *only* if it is consistent with the approved post mining land use. Greenbelts within this site would not be practical because the entire area will be used for the pad and drainage control. All areas south and west of the pad area have undisturbed vegetation and needs no erosion control. All areas north and east of the proposed pad area contain coal refuse and is permitted under the Sunnyside Star point refuse Coal permit.

Findings:

The information provided is considered adequate to meet the minimum regulatory requirements for this section.

RECOMMENDATIONS:

The application is not recommended for approval at this time.